

February 9, 1999

OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON
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REPORT AND DECISION ON A CODE ENFORCEMENT APPEAL.

SUBJECT: Department of Development and Environmental Services File No. **E9700746**

GLENN AND LINDA COOK
Code Enforcement Appeal

Location: 20915 Northeast Woodinville-Duvall Road

Owners/	Linda Cook	Glenn Cook
Appellants:	10503 – 268 th Avenue NE	P.O. Box 662
	Carnation, WA 98014	Duvall, WA 98019-0662

Owners'	Andy Weiss
Agent &	10721 - 296th Avenue NE
Appellant:	Carnation, WA 98014

SUMMARY OF RECOMMENDATIONS AND DECISION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal denied

EXAMINER PROCEEDINGS:

Pre-Hearing Conferences:	August 17, 1998, October 13, 1998, and October 27, 1998
Hearing Opened:	December 16, 1998
Hearing Closed:	February 4, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Building code
- Code violation, building code

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. At 20915 NE Woodinville-Duvall Road, near Woodinville, there are two houses and a garage stored on blocks. The houses are vacant and are not connected to any utilities. These buildings were moved onto the property without permits. On August 11, 1997, the Department of Development and Environmental Services ("DDES", or the "Department") sent to Linda and Glenn Cook a letter informing them that they were required to remove these buildings from the property, citing violations of KCC 16.04 and Uniform Building Code (UBC) Section 106.1. Five and one-half months later, on January 28, 1998, the Department finally issued a Notice and Order demanding removal of the buildings. Linda Cook filed timely appeal.

Due to the dissolution of marriage between Glenn and Linda Cook, and due to sale of the buildings to Andy Weiss, enforcement of the original Notice and Order has been granted several additional delays. On May 29, 1998, the Department issued a Supplemental Notice and Order allowing more time to complete the process for removing the buildings. That Notice and Order was timely appealed by Glenn Cook on June 9, 1998. By August 25, 1998, Andy Weiss claimed ownership of the buildings and was seeking enforcement delay while he sought the appropriate approvals for moving the buildings.

2. Appellant Linda Cook, in an earlier appeal, argued that the buildings do not belong to her and that therefore she should not be held liable. Appellant Glenn Cook argues now that, having sold the buildings to Andy Weiss, he (Mr. Cook) should not be held liable either. In the pre-hearing conference, appellant's agent Andy Weiss argued that he needed additional time in order to obtain the necessary state and local permits. However, Mr. Weiss did not appear at the appeal hearing -- even though he received proper notice (see Attachment A of this Report and Decision).
3. The Department considers the buildings to constitute an attractive nuisance, as well as a public health and safety hazard. The hearing record contains no evidence which would contradict the Department's professional judgment and findings. Public health and safety are paramount purposes of the UBC and KCC Chapter 16.
4. The Department's representative testifies that the Department has received confirmation that the Washington State Department of Transportation has denied a moving permit application for these buildings. The record does not indicate whether Mr. Weiss intends to appeal that decision.
5. The Department recommends that the appeal be denied; that the May 29, 1998 Supplemental Notice and Order be affirmed; and, that the examiner require the houses to be removed or demolished.

CONCLUSIONS:

1. For at least two months, if not longer, Ms. Cook, Mr. Cook and appellants' agent Andy Weiss have ignored this appeal process. The preponderance of evidence further demonstrates that the

buildings upon the Cook property violate applicable codes as cited in the Department's Supplemental Notice and Order of April 29, 1998. Further, the preponderance of evidence in this hearing record, including photographs supporting the testimony of DDES Staff, demonstrates that the long-term storage of these buildings upon the subject property constitutes a public nuisance and hazard. The appeal will be denied and the Department's Notice and Order affirmed.

2. Considering the Order below, property ownership should be addressed in these conclusions.
 - a. The first appeal of this matter was filed by Linda Cook. That appeal was dismissed by this examiner based upon what has turned out to be an erroneous finding ("that the property had been brought into compliance.") This needs to be said in order to make clear that the first appeal was *not* dismissed due to the dissolution of marriage or the distribution of property between Glenn and Linda Cook which had been offered as Ms. Cook's grounds for appeal. Thus, the decision below applies to *both* the "subject property" (the underlying ground owned by Linda Cook) *and* the two houses, regardless of *whoever* may own them (Glenn Cook, Andy Weiss, or anyone else). There is nothing in the Supplemental Notice and Order to suggest that the underlying ground (the real estate upon which the two houses are situated) is excluded from this code enforcement action.¹ Ms. Cook has received proper notice of every pre-hearing conference and hearing scheduled.
 - b. The record is not wholly clear as to who now owns the two houses, Mr. Cook, Mr. Weiss, or, possibly, someone else. If either Mr. Cook or Mr. Weiss own the houses, or either of the houses, then it makes little difference. Both Mr. Cook and Mr. Weiss have received proper notice of the pre-hearing conferences and hearings scheduled. If an unknown third party actually owns either of the houses, then DDES should consult with the Civil Division of the Office of the Prosecuting Attorney before abatement demolition.

DECISION:

The appeal of the May 29, 1998 Supplemental Notice and Order is DENIED.

ORDER:

The May 29, 1998 Supplemental Notice and Order (Case No. E9700746) is restored and in full effect as of this date; ***subject*** to the following modifications:

1. A complete application for demolition of the buildings/structure, including payment of all fees then due, shall be filed with the Department of Development and Environmental Services no later than **April 9, 1999**.
2. The buildings shall be demolished and all debris removed from the subject property no later than

¹ Indeed, the May 29, 1998 Supplemental Notice and Order was served upon both Mr. Cook and Ms. Cook.

sixty (60) days following issuance of the demolition permit(s).

3. The Department of Development and Environmental Services may modify the schedule indicated in paragraphs 1 of 2 of this Order as appropriate to accommodate Washington State Department of Transportation ("WSDOT") appeal schedule upon a showing by appellants Cook or appellants' agent Weiss that a bona fide appeal from the WSDOT decision to deny moving permits for the buildings has indeed been filed. The director of the Department of Development and Environmental Services is not compelled to exercise this paragraph 3 of this order. The authority to decide whether to exercise this paragraph rests solely upon the Director of the Department of Development and Environmental Services or his designee.
4. In the event compliance has not been accomplished by **July 1, 1999**, or by such deadline as may be established by the Department of Development and Environmental Services pursuant to paragraphs 2 and 3 of this Order, the Department shall abate the above violations by causing the correction work to be done. The cost of abatement work may be charged as a personal obligation of the property owner and as a lien against the property; and, in addition, may be charged as a personal obligation of Andy Weiss and as a lien against any property owned by Andy Weiss (such as the two houses). See Conclusion Nos. 2.a and 2.b, above.
5. If complete compliance with the demolition requirements of this Order is not achieved by **June 1, 1999**, or by such deadline as may be established by the Department pursuant to paragraphs 2 and 3 of this order, whichever date is sooner, a civil penalty in the amount of \$300.00 per day per house, plus billable costs of the Department, shall be assessed. At the Department's discretion, these assessments may be placed upon the subject property as well as separately and individually upon two houses located on the property that are owned by Andy Weiss.
6. Nothing in this order limits any prosecutorial option provided by law to the Department of Development and Environmental Services or the King County Prosecutor

ORDERED this 9th day of February, 1999.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 9th day of February, by certified and regular U.S. mail, to the following parties:

Linda Cook
Glenn Cook
Andy Weiss

TRANSMITTED this 9th day of February, by interoffice mail, to the following:

Ken Dinsmore Darren Wilson

Brenda Wood

Steve Wright

Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE DECEMBER 16, 1998 AND FEBRUARY 4, 1999 PUBLIC HEARING ON
DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E9700746 -
COOK:

R. S. Titus was the Hearing Examiner for this matter. Participating at the hearing were Brenda Wood and Darren Wilson representing the County; and Andy Weiss.

The following exhibits were offered and entered into the hearing record February 4, 1999:

- Exhibit No. 1 Staff report to the Hearing Examiner
- Exhibit No. 2 Copy of Notice and Order issued January 28, 1998
- Exhibit No. 3 Copy of Appeal received February 19, 1998
- Exhibit No. 4 Copy of Supplemental Notice and Order issued May 29, 1998
- Exhibit No. 5 Copy of Appeal received June 9, 1998
- Exhibit No. 6 Copy of permit application B98A0400
- Exhibit No. 7 Copy of photographs taken August 6, 1998
- Exhibit No. 8 Map of lot
- Exhibit No. 9 Photographs of buildings taken December 14, 1998

RST:gb

Attachment

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